

Rental Bonds

When you rent a place to live, you will usually be asked to pay a rental bond. In Queensland the Residential Tenancies Authority (RTA) holds bond money until you move out. The rules about the payment and refund of your rental bond are set out in the Residential Tenancies and Rooming Accommodation Act 2008 ('The Act'). When you move out your lessor or provider may be entitled to claim money from your bond if you do not leave the premises clean, are behind in rent, damage the premises, or breach the agreement.

What is a rental bond?

A rental bond is money you can be asked to pay as financial security when you rent a place. The Act sets out maximum bond amounts but it is not compulsory for a lessor, agent or provider to charge a bond.

In Queensland all rental bonds must be lodged with the RTA during the tenancy. This applies to all residential bonds, including bonds paid for boarders or lodgers, or on-campus university accommodation, which is not covered by other parts of the Act.

The person you pay bond to must give you a receipt and fill in an RTA Bond Lodgement form with you that records your signature and the amount you have paid. They must send this form into the RTA with your bond.

When the RTA receives your bond they will send you a bond lodgement number. You can ring the RTA to check your bond is lodged.

If the person you pay bond to fails to lodge your bond with the RTA this is a serious offence. You can report this to the RTA. However you will need a receipt as evidence you paid a bond.

In residential tenancies you must be given a copy of the proposed agreement before you can be asked to pay a bond, or other money for the tenancy (other than a key deposit). This does not apply in rooming accommodation.

Bond receipts

The person you pay bond to must give you a receipt when you pay your bond. The receipt must record:

- The name and signature of the person receiving the bond
- Your name and the name of the lessor or provider
- The address of the rental premises
- The date the bond is paid
- The amount of bond paid
- If there are co-tenants, the amount paid by each tenant.

Keep your bond receipt in a safe place, along with your other tenancy documents. This receipt may be your only evidence you paid the bond. The person receiving your bond must keep their copy of the receipt for at least one year after your agreement ends.

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Tenancy Facts are published by Tenants Queensland (TQ) to assist tenants and residents. Tenancy Facts are available from your local QSTARS advice service or TQ at www.tenantsqld.org.au

Who's who? A **lessor** is the person who gives a **tenant** the 'right to occupy' a residential premises under the Act. Lessors often employ real estate **agents** to work on their behalf. A **provider** is a person who provides rooming accommodation to **residents**.

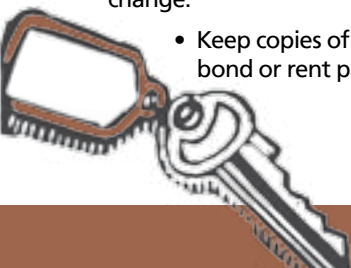
The Residential Tenancies Authority (RTA) is the government authority that oversees tenancy laws in Queensland. Tenancy forms are available from the RTA online at www.rta.qld.gov.au or call the RTA on 1300 366311

The Tribunal refers to the Queensland Civil and Administrative Tribunal (QCAT), which hears residential tenancy disputes. To find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228



Tips to avoid bond problems

- Ask for a receipt when you pay a bond and sign the RTA Bond Lodgement form.
- The person you pay bond to must lodge your bond and the form with the RTA.
- Fill in an Entry Condition Report and take photos to record the condition of the premises when you move in. Keep a copy
- Read all documents carefully and never sign a blank or incomplete form,
- Use a Change of Shared Bond form to update RTA signatures if people on the bond change.
- Give written notice before you leave.
- Leave the premises clean, similar to their condition when you moved in.
- When moving out take photos of the premises and keep copies of cleaning receipts.
- Use an RTA Exit Condition Report to record the condition of the premises. Give a copy to the agent or lessor.
- Return all keys when you leave.
- Notify the RTA of your new address.
- When the tenancy ends use a Refund of Rental Bond form to apply to the RTA for your bond refund.
- Keep copies of your receipts for bond or rent payments.





Rental bonds

Maximum bond

The maximum bond you can be charged is set out in the Act.

For **general tenancies** maximum bond is equal to four weeks rent, unless weekly rent is more than \$700

In **rooming accommodation** the maximum bond is equal to four weeks rent, unless weekly rent is more than \$500.

In **moveable dwelling tenancies** the maximum bond is equal to two weeks rent. However if electricity is supplied in the lessor's name and individually metered bond can be 3 weeks rent.

If your lessor is also your employer and gives you a rental subsidy, bond is the greater of \$400 or the maximum bond that applies

It is an offence for the lessor, agent or provider to charge more than the maximum bond amount. If they do this, they could be fined. If you have paid a bond in excess of the maximum amount the RTA will automatically return any extra amount to you

Bond increases

Your bond may be increased if your rent increases, however, you cannot be asked to pay more than the maximum amount. Bond can only be increased once in a 12 month period and you must be given at least one month written notice of the increase. Bond cannot be increased during a fixed term tenancy unless a term in the agreement allows for this.

Bond instalments

If you face financial hardship you could ask the lessor or provider to let you pay bond in instalments. If all parties agree and you pay the bond in instalments, the lessor, agent or provider must lodge your first instalment with the RTA within 10 days of receiving it, along with a completed Bond Lodgement form. Further instalments must be lodged with the RTA within 10 days.

In rooming accommodation your provider must lodge bond instalments within 10 days of all instalments being received or at the end of a three month period, after which time each bond instalment must be lodged with the RTA within 10 days.

If you rent in community housing and pay a bond in instalments your lessor can wait and lodge the bond when you have paid all the instalments, or your agreement ends.

Bond loans

If you do not have enough money to pay a bond, you may be able to apply for an interest free Bond Loan from the Queensland government. Contact your local Housing Service Centre or call QGOV on 137468 for information. You can apply online at www.qld.gov.au/housing. You must apply before you sign a tenancy agreement for the property. If you are approved for a bond loan it is paid direct to the RTA. You also need to fill in a Bond Lodgement form with your new lessor, agent or provider.

Change of rental property

If you move premises but continue renting from the same lessor, agent or provider, you can transfer your bond from one premises to another if everyone agrees. All parties will need to sign an RTA form 3 to notify the RTA of the new address for the rental bond.

Duty to lodge the bond

The person you pay bond to must lodge your bond money with the RTA within 10 days of receiving it from you. They must complete and sign a Bond Lodgement form with you and send the RTA your bond money and the bond lodgement form.

The Bond Lodgement form records the signatures for you, and your lessor, agent or provider. The RTA will check the signatures before refunding the bond at the end of the tenancy. If parties to the bond change during the tenancy you should contact the RTA to update the signature record.

When the RTA receives your bond, they will send you an official receipt that includes your rental bond number. If you do not receive an official receipt you should contact the RTA to check your bond has been lodged. You can contact the RTA at any time to enquire about the status of your bond.

Co-tenancies

If you share the tenancy with at least one other person and you all sign the tenancy agreement, you are co-tenants. This means that you are individually and jointly responsible for the tenancy. The Bond Lodgement form can record the amount of bond paid by each co-tenant. It is important that everyone who contributes to the bond signs the form. For an agreed bond refund, the same people will need to sign the Refund of Rental Bond form at the end of the tenancy.

Changes to shared bonds

If you share the rental property with other people, you may be asked to contribute to the bond. If you move into an existing tenancy you may pay a bond to a head-tenant, or the tenant who is leaving. The person you pay bond to must give you a receipt.

If the tenants change during a shared tenancy you can use an RTA Change of Shared Bond Arrangement form to notify the RTA of the change and update the signatures. This form must be signed by the outgoing tenant, the new and remaining tenants, and the lessor or agent. This form can be used as long as one original tenant remains in the premises. When you send the form into the RTA they will update their records regarding who can claim the bond at the end of the tenancy

Bonds paid for sub-tenancies

If you are a sub-tenant renting from the head tenant, the head tenant can charge you a bond for your tenancy. The head tenant has the same responsibilities as a lessor and is required to give you a receipt, complete a Bond Lodgement form with you, and lodge the bond with the RTA within 10 days of receiving it. The parties to this bond will be the head tenant and the sub-tenant. The head tenant has all the other obligations of a lessor, including giving you a written agreement.

Bonds paid by boarders and lodgers

If you are a boarder or lodger (you rent a room in someone's place), you may be charged a bond. While the Act does not apply to your tenancy agreement, your bond is covered by the Act and must be treated in the same way as all other bonds. You must be given a receipt when you pay the bond. The person you pay bond to must lodge your bond with the RTA within 10 days of receiving it, along with a Bond Lodgement form signed by you.

Bond refunds

When your tenancy ends you can use a Refund of Rental Bond form to apply to the RTA for your bond refund. How the bond is paid out will depend on whether or not everyone agrees and signs the bond refund form. If there is a dispute over the bond refund the RTA will act on the first form they receive.

When you sign a Refund of Rental Bond form make sure the amounts are filled in, as signing a blank form is like signing a blank cheque. After you fill in the form you can lodge it with the RTA as soon as your tenancy ends. When moving out it is also important to notify the RTA of your new address so you are kept informed about your bond refund and any claims.

Agreed bond refunds

If you and the lessor, agent or provider, agree on how your bond should be refunded, you can jointly complete and sign a Refund of Rental Bond form to authorise the RTA to release the bond. This is called an "agreed" bond refund.

You can post the agreed Refund of Rental Bond form into the RTA or upload the form via the RTA website. When the RTA receive an agreed form they can immediately refund the bond, as long as the names and signatures on the form match all those currently registered with the RTA. Bank details must be included so the RTA can pay the bond refund into the nominated accounts.

Disputed bond refunds

If you and the lessor, agent or provider cannot agree on how the bond should be refunded, anyone who is a party to the bond can complete and sign a Refund of Rental Bond form and lodge it with the RTA, either by post or online. If all parties have not signed the form this is called a 'disputed' bond claim.

The RTA can process a disputed bond refund claim as soon as the tenancy ends. The RTA can release any undisputed bond but will hold any disputed bond amount until the dispute is resolved. The RTA act on the first claim form they receive and will send a Notice of Claim letter to any other parties to the bond.

Notice of Claim

The RTA Notice of Claim letter notifies the person that a bond claim has been lodged with the RTA. The Notice of Claim letter gives the person 14 days notice to dispute this claim by sending a Dispute Resolution Request form into the RTA.

If the RTA receives a Dispute Resolution Request form within 14 days, they will contact parties to arrange telephone conciliation. The RTA Dispute Resolution Service aims to help people exchange information, discuss the matter and resolve the dispute. If all parties reach an agreement about the bond they can sign a new agreed Refund of Rental Bond form to immediately release the bond.

If the RTA is unable to help you reach an agreement they will issue a Notice of Unresolved Dispute (NURD). The person who receives the NURD has 7 days to apply to the Tribunal (QCAT) for a bond dispute hearing and must notify the RTA of this application.

If the RTA does not receive a Dispute Resolution Request within the 14 day time limit, or the person who receives a NURD does not apply to the Tribunal in 7 days, the RTA will immediately release the bond according to the first Refund of Rental Bond claim they received.

Bond disputes

When your tenancy ends your lessor, agent or provider may want to claim some money from your bond. They may be entitled to make a claim if you have breached the agreement, left the tenancy owing rent, damaged the premises, or moved out and failed to leave the place clean and in a similar condition to the beginning of the tenancy (fair wear and tear excepted).

If you dispute the claim

If there is a claim against your bond and you do not agree, you can fill in an RTA Refund of Rental Bond form and send it into the RTA as soon as your tenancy ends. The RTA act on the first claim they receive and send a Notice to Claim to the other parties. When moving out it is important to notify the RTA of your new address so you are kept informed about your bond and any claims.

If you have a bond dispute you can also contact the lessor, agent or provider to request details of their claim and try to negotiate an agreement. Anytime you reach an agreement about the bond, you can both fill in and sign a new "agreed" Refund of Rental Bond form which allows the RTA to immediately release the bond.

If the RTA sends you a Notice of Claim, it means the lessor, agent or provider has already lodged a claim against your bond. You have 14 days to respond and dispute this claim. You will need to send a Dispute Resolution Request form 16 into the RTA. If you do not respond in 14 days the RTA will automatically release the bond to the party that lodged the first Refund of Rental Bond claim.

If you send a form 16 into the RTA Dispute Resolution Service an RTA conciliator will contact you and the other party to assist you to resolve the dispute. If you cannot reach an agreement the RTA will send you a Notice of Unresolved Dispute (NURD).

If you have a bond dispute and get a NURD from the RTA you then have seven days to apply to the Tribunal for a tenancy hearing. If you do not apply to the Tribunal within seven days, the RTA will release your bond according to the claim by the other party.

Evidence of the claims

If there is a bond dispute you can ask the other party to give you details of their claim and copies of any receipts or evidence. If you are not given this information you can request copies during the RTA Dispute Resolution process, or at the Tribunal hearing.

If you believe the lessor or provider does not have a good reason to claim you bond, you can gather evidence to dispute their claims. This evidence is especially important if you need to go to the Tribunal for a bond dispute hearing

Your evidence may include:

- Copies of your Entry Condition Report and Exit Condition Report
- Photos to show you left the property clean and undamaged and removed your goods.
- Evidence you did cleaning or gardening.
- Copies of rent receipts or rent records to show rent was paid.
- Copies of maintenance requests, emails or Affidavit statements from witnesses if there is a dispute over repairs or damage.
- Copies of quotes or receipts for work to be carried out.

If your bond is not lodged

If the person you pay bond money to does not lodge your bond with the RTA this is an offence. You can write and advise the person that failure to lodge your bond with the RTA is a serious offence and they may face an investigation by the RTA and a penalty fine. You can ask them to return your bond money to you, or lodge your bond with the RTA, as required by the Act.

If your bond is not lodged you can contact the RTA Investigations Unit to make a written complaint about this offence. You will need a bond receipt or other proof you paid the bond. You can also apply to the RTA Dispute Resolution Service for conciliation.

If the dispute is not resolved you can apply to QCAT to seek an order the person pay your bond money back to you. You will need a receipt or other evidence you paid the person money for a bond. If you need help contact a tenant advice service.

RTA Dispute Resolution Service

The RTA provides a free Dispute Resolution Service that can help you and your lessor, agent or provider, resolve a tenancy dispute. If you have a bond or tenancy dispute you can use a Form 16 to apply to the RTA Dispute Resolution Service. The RTA can set up a telephone conference, or may conduct a series of phone calls with each party, to assist parties to exchange information and reach an agreement.

If parties reach an agreement about a bond dispute all parties can sign and lodge a new agreed Refund of Rental Bond form with the RTA to immediately release the bond. If this agreement is in "full settlement of all claims" write this on the form.

If you cannot reach an agreement the RTA will issue a Notice of Unresolved Dispute (NURD). This is sent to the person who lodged the Dispute Resolution Request form 16. This person then has 7 days to apply for a QCAT Tribunal hearing about the bond

Further help

Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986. QSTARS is managed by TQ and delivered in collaboration with partner organisations.

For more information visit www.tenantsqld.org.au

Queensland Statewide Tenant Advice and Referral Services (QSTARS)

QSTARS provides specialist tenancy advice, advocacy support and referral for Queensland renters.

Contact QSTARS for tenancy advice on: **1300 744 263**

Open Mon – Fri 9am – 5pm (extended hours to 7pm on Tues & Wed)

Visit www.qstars.org.au for fact sheets and information



Tenants Queensland is an independent community organisation. We gratefully acknowledge funding from the Commonwealth Government Community Legal Services program and the State Government Department of Housing and Public Works QSTARS program.

Disclaimer: This brochure provides information only and is not intended to provide legal advice.

Going to the Tribunal

The Queensland Civil and Administrative Tribunal (QCAT) has the power to hear tenancy disputes. To apply for a tenancy hearing you need to fill in a QCAT Application for Minor Civil Dispute - Residential Tenancy Dispute (form 2). This form is available from your local courthouse or online at www.qcat.qld.gov.au

Tribunal hearings about bond refunds or compensation claims are non-urgent applications. This means the applicant must have a Notice of Unresolved Dispute (NURD) from the RTA before applying to QCAT for a bond dispute hearing. You must write the RTA NURD conciliation number on your QCAT application form.

If applying to the Tribunal you are the 'applicant'. Your application should clearly state your claim and focus on the facts of the case. You can attach a summary statement and copies of any relevant evidence.

If you are responding to a hearing you are the 'respondent'. The Tribunal will send you a copy of the claim lodged by the other party and a letter telling you the date and time of the hearing. It is important to attend the hearing so you can tell your side of the story. You can also gather your evidence and prepare a statement to respond to the claim being made against you.

At the hearing the Tribunal will look at the application and the evidence presented by each side and can make a final order (decision) about the bond refund. The RTA can immediately release the bond according to the Tribunal order.

If you need help to fill to prepare for a QCAT tenancy hearing contact a tenant advice service.

At the end of your tenancy you can use a Refund of Rental Bond form to apply to the RTA to get your bond back. If you have a bond dispute your Entry and Exit Condition Reports, cleaning receipts and photos, can provide important evidence

Translating and Interpreting Service (TIS)

If you need an interpreter let us know when you call, or call the TIS translating and interpreting service on 131 450 and they can help you contact our service.

Queensland Civil Administrative Tribunal (QCAT)

QCAT hears tenancy matters at the QCAT registry in Brisbane or in your local Magistrates Court (except Brisbane). To get QCAT forms or find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228.

Residential Tenancies Authority (RTA)

The RTA is the Queensland government authority. RTA tenancy forms are available at www.rta.qld.gov.au or call 1300 366 311